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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,454	01/11/2002	Dennis M. Smid	DSMID 3.0-001 RE	8257

530 7590 07/23/2010  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD, NJ 07090

EXAMINER
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CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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07/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

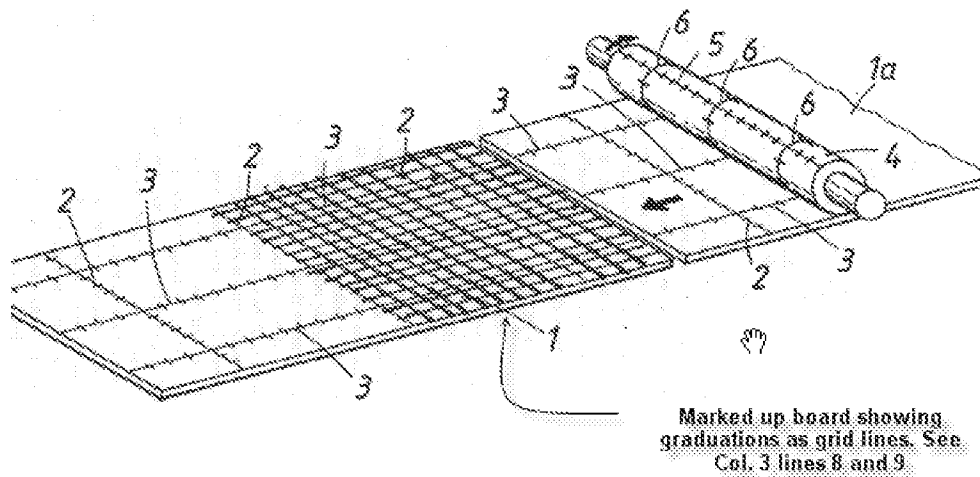
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1. The replacement drawing sheet does not comply with 37 CFR 1.173 (b)(3) which requires amended figures must be identified as "Amended". The drawing sheet has not been entered. If timely resubmitted in compliance with 37 CFR 1.173 the replacement sheet would overcome the drawing objections set forth in the final rejection mailed 02/12/10.

2. Applicant's arguments filed 07/12/10 have been fully considered.

The passages relied upon for support of the limitation "any value up to 2 inches" are of different breadth than the claimed limitation and fail to provide support for the claimed limitation. The specification only states that the distance may be standard intervals such as 16 inches or 24 inches or relatively small values such as 1/2, 1, 1½, 2 inches or the like. However, original claim 5 supports the distance as being less than 2 inches. The disclosure as a whole supports the altered limitation "any value up to 2 inches". The rejection under 35 USC 112, first paragraph, of claims 23-28 set forth in section 6. of the Final rejection mailed 02/12/10 is withdrawn.

In response to the argument that Putz does not provide the lines are the only lines on the panel the examiner again directs applicant to Column 3, lines 8 and 9 where Putz recites that the graduations of each scale may consist of grid line connecting the adjacent scales. When making the graduations as solid lines as stated the only lines on the board would be a first longitudinal set and second transverse set of line on the board. The examiner has marked up half of one board below to illustrate what is stated in this passage.



Aug 22, 1980

4,858,402

With respect to the particular claimed spacing the examiner maintains that it would have been an obvious choice of design absent any unexpected or unpredictable results as set forth in the Final Rejection.

3. The supplemental declaration filed is unacceptable for at the following reason: the duty to disclose statement fails to comply with 37 CFR 1.56 (note "examination" should read - -patentability - -). The examiner suggests applicant use from PTO/SB/51.

4. For purposes of Appeal the claims remain rejected under art and based upon defective declaration for the reasons set forth in the Final Rejection mailed 02/12/10. Note the drawings also remain objected to.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. CANFIELD whose telephone number is (571)272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rich Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield  
Primary Examiner  
Art Unit 3635

/Robert J Canfield/  
Primary Examiner, Art Unit 3635